

REMARKS

Reconsideration and allowance of the above-captioned patent application is respectfully requested in view of the above amendment and following remarks. Claims 2, 3, 5-7, 9, 12, 14, 16-18, and 20 have been amended. Claims 1, 4, and 15 have been canceled and claims 26 and 27 added. No new matter has been added. Upon entry of the present amendment, claims 2, 3, 5-14, and 16-27 will be pending.

The drawings are objected to under 37 C.F.R. 1.83(a) for allegedly failing to illustrate “a seal has [sic] marginal flanges” as recited in claims 14 and 16 (Office Action, paragraph 1). Claim 14 and 16 have been amended to further clarify that they include a **zipper** with flanges. FIG. 3 shows a zipper 24 with flanges 22. Thus, the objection should be withdrawn.

I. The Claimed Inventions Are Novel

A. The Grundschober Patent

Claims 1, 2, 15, 17, and 20 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Pat. No. 3,680,689 (the “Grundschober patent”). Claims 1 and 15 have been canceled. Claims 2, 17, and 20 have been amended to depend from new claims 26 and 27. Applicant respectfully requests reconsideration of this rejection because the Grundschober patent does not teach *a tag folded in a generally M-shaped configuration in cross-section to define two outside legs and two inside legs* as recited in claims 26 and 27.

The Grundschober patent discloses packages that have a barrier with a tape or filament that protrudes beyond the packaging. The tape or filament may be pulled and detached from the packaging to create a discharge opening. The contents of the package can then be dispensed through the opening left by the detached tape or filament.

Unlike the Grundschober patent, it is not necessary to detach the tag in Applicant’s claimed inventions to access the inside of the bag. Applicant’s claimed inventions have a tag folded in a generally M-shaped configuration in cross-section to define two outside legs and two inside legs located between the outside legs. The use of a generally M-shaped configuration allows the inside legs to be withdrawn from between the outside legs. The outside legs are then separated to gain access to the interior of the bag. Significantly, the

generally M-shaped configuration does not require that the tag be detached from the bag to gain access to the inside of the bag.

The Grundschober patent does not teach *a tag folded in a generally M-shaped configuration in cross-section to define two outside legs and two inside legs located between the outside legs* as recited in Applicant's claims. Accordingly, Applicant respectfully requests that this rejection under 35 U.S.C. § 102(b) be withdrawn.

B. The Bell Patent

Claims 1-3, 15, 17, and 20 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Pat. No. 4,936,456 (the "Bell patent"). Claims 1 and 15 have been canceled. Claims 2, 3, 17, and 20 have been amended to depend from new claims 26 and 27. Applicant respectfully requests reconsideration of this rejection because the Bell patent does not teach *a tag within the length of at least one seal* as recited in claims 26 and 27.

The Bell patent discloses packaging suitable for containing medical items to be sterilized. The packaging has gas permeable gusset members that may be peeled away to gain access to the contents of the packaging. As best understood, the Office Action equates the gusset members of the Bell patent with the tag in Applicant's claimed inventions. The gusset members in the Bell patent extend along the mouth of the bag and form the entire seal. Significantly, the tag of Applicant's claimed invention is within the length of the seal and does not form the entire seal.

Thus, the Bell patent does not teach *a tag within the length of at least one seal* as recited in Applicant's claims. Accordingly, Applicant respectfully requests that this rejection under 35 U.S.C. § 102(b) be withdrawn.

C. The Moore Patent

Claims 1, 2, 9, 15, 17, and 20 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Pat. No. 2,262,111 (the "Moore patent"). Claims 1 and 15 have been canceled. Claims 2, 9, 17, and 20 have been amended to depend from new claims 26 and 27. Applicant respectfully requests reconsideration of this rejection because the Moore patent does not teach *a tag folded in a generally M-shaped configuration in cross-section to define two outside legs and two inside legs* as recited in claims 26 and 27.

The Moore patent discloses a bag with tabs for pulling the sides of the bag apart. The tabs are used to facilitate the breaking of the seal to expose the contents of the container. Significantly, the tabs are not *folded in a generally M-shaped configuration in cross-section to define two outside legs and two inside legs* as recited in Applicant's claims. Accordingly, Applicant respectfully requests that this rejection under 35 U.S.C. § 102(b) be withdrawn.

II. The Claimed Inventions Are Enabled

Claims 1-25 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to provide enabling disclosure. The Office Action states that the disclosure is non-enabling because it fails to explain how the opening of the bag is enlarged (Office Action, paragraph 3). Applicant traverses the rejection and respectfully requests reconsideration of the claims because one skilled in the art, having read Applicant's patent application, would know how to enlarge the opening of the plastic bags claimed by Applicant.

The enablement requirement of 35 U.S.C. § 112, first paragraph, is satisfied so long as a disclosure contains sufficient information that persons of ordinary skill in the art having the disclosure before them would be able to make and use the invention. *In re Wands*, 8 U.S.P.Q.2d 1400 (Fed. Cir. 1988). Not everything necessary to practice the invention needs be explicitly disclosed in a patent application. M.P.E.P. § 2164.8. In fact, what is well known is best omitted. *Id.* (citing *In re Buchner*, 18 U.S.P.Q.2d 1331, 1332 (Fed. Cir. 1991)).

Applicant's claimed inventions allow a user to open a sealed bag more easily by incorporating a tag within the seal. The tag is used to open a zone of the bag's seal and allow access to the interior of the bag (Specification, page 1, lines 20-26). On page 7, lines 16-28, the specification details the steps for opening sealed bags with a tag. Once the bag's seal has an opening, it is easy to enlarge the opening. Anyone that has ever opened a bag of potato chips or a Ziploc® bag knows how to enlarge the opening of a bag: simply pull on opposite sides of the bag. Accordingly, one skilled in the art does not need to be taught how to enlarge the opening of a sealed bag. Applicant respectfully requests the rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

III. The Claims Are Clear And Definite

A. Claims 1 and 2-14

Claims 1 and 2-14 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Although Applicant believes the claims are clear and definite, solely to advance prosecution, Applicant has canceled claim 1 and added claim 26 to employ alternative language and thereby, moot the rejection.

Claim 26 accurately recites that *the outside legs can be separated to permit access to the interior of the bag*. As shown in FIG. 10, the opening of the peel seal material of the outside legs produces an access hole through the top seal 34, and through the zipper seal 36 if provided, directly to the interior of the bag (Specification, page 7, lines 24-27). Claim 26 has been drafted to further make clear that the entire tag is not withdrawn from the bag.

B. Claim 4

Claims 4 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Although Applicant believes the claims are clear and definite, solely to advance prosecution, Applicant has canceled claim 4 and added claim 26 to employ alternative language and thereby, moot the rejection. Claim 26 accurately recites that the outside surfaces of the outside legs of the tag are sealed to the *bag sides at the seal*.

C. Claim 7

Claims 7 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for misspelling “provided.” Applicant has amended claim 7 to correct this typographical error.

D. Claim 12

Claims 12 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to recite a “reclosable zipper.” Although Applicant believes the claim is clear and definite, solely to advance prosecution, Applicant has amended claim 12 to recite a reclosable zipper.

E. Claim 14

Claims 14 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being inaccurate because it recited “a zipper seal [with] marginal flanges”. Applicant has amended claim 14 by removing the word “seal”. FIG. 3 clearly shows a zipper 24 with flanges 22. Thus, the rejection should be withdrawn.

F. Claims 15 and 16-20

Claims 5 and 16-20 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Although Applicant believes the claims are clear and definite, solely to advance prosecution, Applicant has canceled claim 15 and added claim 27 to employ alternative language and thereby, moot the rejection.

Claim 27 accurately recites that *the outside legs can be separated to permit access to the interior of the bag*. As shown in FIG. 10, the opening of the peel seal material of the outside legs produces an access hole through the top seal 34, and through the zipper seal 36 if provided, directly to the interior of the bag (Specification, page 7, lines 24-27). Claim 27 has been drafted to further make clear that the entire tag is not withdrawn from the bag.

G. Claim 16

Claims 16 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being inaccurate because it recited “flanges of a reclosable zipper seal”. Applicant has amended claim 14 by removing the word “seal”. FIG. 3 clearly shows a zipper 24 with flanges 22. Thus, the rejection should be withdrawn.

H. Claim 19

Claim 19 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for lack of antecedent basis for “the inside legs of the tag”. Claim 19 has been amended to depend from claim 27 which recites a tag with “inside legs.” Thus, the rejection should be withdrawn.

I. Claim 20

Claim 20 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for lack of antecedent basis for “the host material”. Claim 20 has been amended to depend from claim 17 which recites a “host material.” Thus, the rejection should be withdrawn.

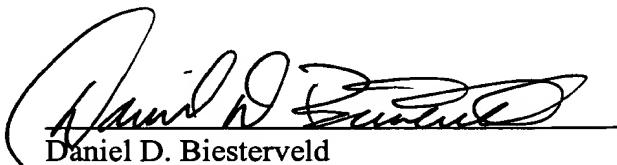
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IV. Conclusion

In view of the foregoing, Applicant respectfully submits that the claims are in condition for allowance. An early notice of the same is earnestly solicited. The Examiner is invited to contact Applicant's undersigned representative at (215) 557-5963 if there are any questions regarding Applicant's claimed inventions.

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